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OFFICE OF PETITIONS

In re Patent No. 7,956,070	:	DECISION ON
Alcaraz, et al.	:	PATENT TERM ADJUSTMENT
Issue Date: June 7, 2011	:	AND NOTICE OF INTENT
Application No. 10/587,633	:	TO ISSUE
Filed: July 28, 2006	:	CERTIFICATE OF
Attorney Docket No. 06275-0518US1	:	CORRECTION

This is a decision on the "APPLICATION FOR PATENT TERM ADJUSTMENT UNDER 37 C.F.R. § 1.705(d)", filed August 8, 2011. Patentees request that the patent term adjustment indicated on the patent be corrected from one thousand one hundred sixty-six (1166) days to one thousand two hundred seven (1207) days.

The petition is **GRANTED**.

The patent term adjustment indicated on the patent is to be corrected by issuance of a certificate of correction showing a revised Patent Term Adjustment of **one thousand two hundred seven (1207)** days.

On June 7, 2011, the above-identified application matured into U.S. Patent No. 7,956,070. Patentees timely filed an application for patent term adjustment under 37 CFR 1.705(d) on August 8, 2011. Patentees assert that they should not have been assessed applicant delay of seventy-one (71) days for the submission of a Rule 312 Amendment on March 29, 2011, after the Notice of Allowance was mailed on December 30, 2010. Rather, Patentees assert that they should have only been assessed applicant delay of thirty (30) days.

37 CFR 1.704(c)(10) states that applicant delay shall be assessed "beginning on the date the...paper was filed and ending on the mailing date of the Office action or notice in response to the...paper". Here, Applicant filed the Rule 312 Amendment on March 29, 2011, and the Office mailed a Response to Rule 312 Communication on April 27, 2011. Accordingly, Applicants should have been accorded 30 days of delay for the filing of the Rule 312 Amendment, not 71 days as reflected in PAIR.

In view thereof, the correct determination of PTA at the time of issuance is one thousand two hundred seven (1207) days (657 days of "A" delay and 679 days of "B" delay) of PTO delay, reduced by 122 days of applicant delay and 7 days of overlap between "A" and "B" delay).

Receipt of the \$200.00 fee set forth in 37 C.F.R. §1.18(e) is acknowledged.

The application is being forwarded to the Certificates of Correction Branch for issuance of a certificate of correction in order to rectify the error regarding the patent term information. See 35 U.S.C. § 254 and 37 C.F.R. § 1.322. The certificate of correction will indicate that the term of the above-identified patent is extended or adjusted by **one thousand two hundred seven (1207)** days subject to any disclaimers.

Telephone inquiries specific to this matter should be directed to the undersigned at (571)272-3207.



Cliff Congo
Petitions Attorney
Office of Petitions

Enc: draft certificate of correction

UNITED STATES PATENT AND TRADEMARK OFFICE
DRAFT CERTIFICATE OF CORRECTION

PATENT : 7,956,070 B2

DATED : June 7, 2011

INVENTOR(S) : Alcaraz et al.

It is certified that error appears in the above-identified patent and that said Letters Patent is hereby corrected as shown below:

On the cover page,

[*] Notice: Subject to any disclaimer, the term of this patent is extended or adjusted under 35 USC 154(b) by 1166 days.--

Delete the phrase "by 1166 days" and insert -- by 1207 days--